

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF
RAY LA BLANC,
d.b.a. ROE APARTMENTS,

Appellant,

vs.

PUGET SOUND AIR POLLUTION
CONTROL AGENCY,

Respondent.

PCRB No. 274

FINDINGS OF FACT, CONCLUSIONS AND ORDER

This matter, the appeal of a \$25.00 civil penalty for an alleged smoke emission violation of respondent's Regulation I, came before all members of the Pollution Control Hearings Board at a formal hearing in a conference room in respondent's Seattle offices at 10:00 a.m., April 5, 1973.

Appellant was present and represented himself. Respondent appeared through its counsel, Keith D. McGoffin. Evan Aaron, Seattle court reporter, recorded the proceedings.

1 Witnesses were sworn and testified. Exhibits were offered and
2 admitted.

3 On the basis of testimony heard and exhibits examined, the Pollution
4 Control Hearings Board prepared Proposed Findings of Fact, Conclusions
5 and Order which were submitted to the appellant and respondent on
6 May 11, 1973. No objections or exceptions to the Proposed Findings,
7 Conclusions and Order having been received, the Pollution Control
8 Hearings Board makes and enters the following

9 FINDINGS OF FACT

10 I.

11 On December 13, 1972, from the boiler stack of appellant's Roe
12 Apartments, 912 East Pike Street, Seattle, King County, there was
13 emitted for at least six consecutive minutes black smoke of density
14 greater than No. 2 on the Ringelmann scale.

15 II.

16 Section 9.03(a) of respondent's Regulation I makes it unlawful to
17 cause or allow the emission of an air contaminant for more than three
18 minutes in a one hour period greater in density than No. 2 on the
19 Ringelmann scale.

20 III.

21 Respondent issued Notice of Violation 6644 to appellant in
22 connection with the December 13, 1972 incident, and subsequently served
23 Notice of Civil Penalty No. 598, in the sum of \$25.00, on appellant.
24 That penalty is the subject of this appeal.

25 IV.

26 Desiring to acquire a heating element less likely to cause air

27 FINDINGS OF FACT,
CONCLUSIONS AND ORDER

1 pollution, appellant on January 15, 1973 entered into a contract for
2 the installation of a natural gas burner for the Roe Apartments'
3 furnace.

4 From these Findings, the Pollution Control Hearings Board comes to
5 these

6 CONCLUSIONS

7 I.

8 Appellant was in violation of Section 9.03(a) of respondent's
9 Regulation I on December 13, 1972.

10 II.

11 Notice of Civil Penalty No. 598, for \$25.00, being one-fifth of
12 the maximum allowable amount for a violation of respondent's
13 Regulation I, is reasonable.

14 III.

15 However, appellant's installation of a natural gas burner is an
16 expense designed to keep the Roe Apartments in compliance with air
17 pollution regulations. With compliance apparently being achieved,
18 collection of the penalty seems unnecessary.

19 From these Conclusions, the Pollution Control Hearings Board
20 makes this

21 ORDER

22 The appeal is denied but Notice of Civil Penalty No. 598 is
23 suspended on condition of no further violation for a period of six
24 months from the date of this Order.

25

26

27 FINDINGS OF FACT,
CONCLUSIONS AND ORDER

1 DONE at Lacey, Washington this 14th day of June, 1973.

2 POLLUTION CONTROL HEARINGS BOARD

3 Walt Woodward
4 WALT WOODWARD, Chairman

5 W. A. Gissberg
6 W. A. GISSBERG, Member

7 James T. Sheehy
8 JAMES T. SHEEHY, Member

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27 FINDINGS OF FACT,
CONCLUSIONS AND ORDER